

EXHIBIT E

1 DR. KUMAR BELANI CONFIDENTIAL
2 UNITED STATES DISTRICT COURT
3 DISTRICT OF MINNESOTA

4 -----

In re Bair Hugger Forced Air Warming
5 Products Liability Litigation

6 MDL NO. 15-2666
(JNE/FLN)

7

8

This Document Relates To:

9 All Actions

10 -----

11 ***CONFIDENTIAL***

12 VIDEOTAPED DEPOSITION OF

13 DR. KUMAR BELANI

14 September 7, 2016

15 9:11 a.m.

16

17

18 Being held at: Children's Rehabilitation Center

19 426 Church Street SE

20 Minneapolis, MN

21

22

23

24 Reported by: Mari A. Skalicky

25 Job No. 112500

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1 DR. KUMAR BELANI CONFIDENTIAL
2 EXHIBITS
3

Exhibit	Page Marked
Exhibit 1	7
Amended Notice of Videotaped Deposition of Kumar Belani, M.D. (no Bates)	
Exhibit 2	7
Pretrial Order No. 7: Protective Order (no Bates)	
Exhibit 3	7
Pretrial Order No. 7: Protective Order (no Bates)	
Exhibit 4	7
"Patient Warming Excess Heat: The Effects on Orthopedic Operating Room Ventilation Performance" (no Bates)	
Exhibit 5	7
"Forced-Air warming blowers: An evaluation of filtration adequacy and airborne contamination emissions in the operating room," Bates Belani_000182, 187, 188, 189	
Exhibit 6	7
"Forced-air warming and ultra-clean ventilation do not mix," Bates Belani_000190 to 197	
Exhibit 7	7
Photograph (no Bates)	
Exhibit 8	7
Photograph (no Bates)	
Exhibit 9	7
Photograph (no Bates)	
Exhibit 10	7
"It's Not Just Another Room ..." (no Bates)	

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1 DR. KUMAR BELANI CONFIDENTIAL
2 EXHIBITS
3 (Continued)

Exhibit	Page Marked
Exhibit 11	7
University of Minnesota Notice of Grant or Contract Award (no Bates)	
Exhibit 12	199
Research Agreement (no Bates)	
Exhibit 13	207
Curriculum vitae of Kumar Girdharidas Belani, Bates Belani_000066 to 82	
Exhibit 14	215
Chain of e-mails with attached documents, Bates 3M00133591 to 133602	
Exhibit 15	222
E-mail with attached documents, Bates 3M00113806 to 113809	
Exhibit 16	231
"Forced-Air Warming Does Not Worsen Air Quality in Laminar Flow Operating Rooms," Bates3MBH00985628 to 985632	
Exhibit 17	233
Multipage document, Bates Belani_000198 to 214	

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1 DR. KUMAR BELANI CONFIDENTIAL
2 PROCEEDINGS

3 (Whereupon, the videotaped deposition
4 of DR. KUMAR BELANI, taken pursuant to
5 Notice, before Mari Skalicky, Court
6 Reporter, a Notary Public in and for the
7 County of Hennepin, State of Minnesota, at
8 426 Church Street SE, Room 488,
9 Minneapolis, Minnesota, was commenced at
10 9:11 a.m. on September 7, 2016, as
11 follows:)
12 (Exhibit Nos. 1 through 11 were
13 marked for identification by the Court
14 Reporter.)
15 ---

16 THE VIDEO OPERATOR: This is the 18:00
17 start of tape labeled number 1 of the
18 videotaped deposition of Dr. Kumar Belani
19 in the matter of In Re Bair Hugger Forced
20 Air Products Liability Litigation in the
21 United States District Court, District of
22 Minnesota.

23 This district -- this deposition is
24 being held at 426 Church Street Southeast,
25 Minneapolis, Minnesota, 55455, on

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1 DR. KUMAR BELANI CONFIDENTIAL
2 September 7th, 2016, at approximately 9:11
3 a.m.

4 My name is Ben Abraham. I'm a legal
5 video specialist from TSG Reporting
6 Incorporated, headquartered at 747 Third
7 Avenue, New York, New York. The court
8 reporter is Mari Skalicky, in association
9 with TSG Reporting.

10 Will counsel please introduce
11 yourselves?

12 MS. CONLIN: Jan Conlin from Ciresi
13 Conlin on behalf of the plaintiffs.

14 MS. LEWIS: Deborah Lewis from
15 Blackwell Burke on behalf of the
16 defendants 3M and Arizant Healthcare.

17 MR. DUNDER: Keith Dunder, University
18 of Minnesota, on behalf of Dr. Belani.

19 THE VIDEO OPERATOR: Will the court
20 reporter please swear in the witness.

21 ---

22 (The oath was administered by the
23 reporter.)

24 DR. KUMAR BELANI,
25 after having been first duly sworn,

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1 DR. KUMAR BELANI CONFIDENTIAL
2 deposes and says under oath as follows:

3 WITNESS RESPONSE: Yes.

4 - - -

5 EXAMINATION

6 BY MS. LEWIS:

7 Q. Good morning, Dr. Belani.

8 A. Hi.

9 Q. My name is Deborah Lewis.

10 A. Okay.

11 Q. I represent the defendants 3M and Arizant
12 Healthcare in this litigation. Can you
13 state your full name?

14 A. Kumar Belani.

15 Q. Is this the first deposition testimony
16 you've ever given?

17 A. No.

18 Q. So you are familiar with the deposition
19 process?

20 A. I think so, yeah.

21 Q. One of those things I want to talk to you
22 about this morning is to make sure you
23 talk out loud enough so that we can hear
24 you. All right?

25 A. Okay. That's -- that's a problem for me,

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1 DR. KUMAR BELANI CONFIDENTIAL
2 but I'll do my best.

3 Q. Thank you very much.

4 A. Yeah.

5 Q. You understand that you are under oath for
6 your testimony this morning. Correct?

7 A. Correct.

8 Q. Yes?

9 A. Yes.

10 Q. Can you make sure that you answer out loud
11 in -- instead of "unh-unh" or "uh-huhs" so
12 that we can make sure that our court
13 reporter, Mari, can correctly take down
14 your testimony?

15 A. Sure.

16 Q. If you need to take a break for any
17 reason, will you let me know?

18 A. Sure.

19 Q. If you do not understand my questions,
20 will you let me know that you don't
21 understand? And I'll be happy to repeat
22 the question.

23 A. Sure.

24 Q. You -- if a question is confusing, again,
25 let me know that the question is

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1 DR. KUMAR BELANI CONFIDENTIAL
2 confusing. If you don't understand or if
3 you don't know the answer to the question,
4 it's perfectly fine to say, "I don't
5 know." All right?

6 A. Okay.

7 Q. One other admonition is the jury can't do
8 anything about a speculative answer, so if
9 the question would cause you to speculate,
10 would you just let us know that?

11 A. Absolutely.

12 Q. And you don't need to answer a question
13 that would call for you to speculate. All
14 right?

15 A. Okay.

16 Q. I've put in front of you Exhibit 1, which
17 is the amended notice for your deposition
18 this morning. Have you had a chance to
19 see that document?

20 A. This one?

21 MR. DUNDER: I don't believe
22 Dr. Belani saw it personally, but I got it
23 and --

24 MS. LEWIS: Okay.

25 MR. DUNDER: -- and explained it to

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1 DR. KUMAR BELANI CONFIDENTIAL
2 him and so on.

3 BY MS. LEWIS:

4 Q. It's just the notice that says you are
5 here pursuant to that notice for your
6 deposition.

7 A. Okay.

8 Q. I believe you also received a subpoena
9 that --

10 A. Mm-hmm.

11 Q. -- we sent you from my firm, Blackwell
12 Burke?

13 A. Correct.

14 Q. Did you get a chance to review that
15 subpoena?

16 A. Yep.

17 Q. I have not marked it as an exhibit, but I
18 want to ask you a few of the document
19 requests that we asked you about.

20 It's my understanding from your
21 attorney, Mr. Dunder, that you produced
22 everything that was currently in your
23 possession. Is that correct?

24 A. Correct.

25 Q. One of the things that was not a part of

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1 DR. KUMAR BELANI CONFIDENTIAL
 2 your production were emails. Do you have
 3 any emails that were responsive to the
 4 subpoena? And by that, I mean any emails
 5 that would have been between you and any
 6 of the other co-authors of some of the
 7 studies in which you were involved?
 8 A. I don't believe so.
 9 Q. I'm sorry?
 10 A. I don't believe so.
 11 Q. What happened to those emails?
 12 A. I couldn't find them.
 13 Q. Were the emails that -- was the email
 14 system that you used to communicate, was
 15 that a gmail?
 16 A. It was a university account.
 17 Q. I'm sorry?
 18 A. University account.
 19 Q. Were there any emails that you -- did you
 20 use the gmail account for any email
 21 communication?
 22 A. I may have. I may have.
 23 Q. Do you know what happened to those
 24 emails --
 25 A. I think they --

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1 DR. KUMAR BELANI CONFIDENTIAL
 2 Q. -- from gmail?
 3 A. I think they stay for a while and then
 4 they're flushed out.
 5 Q. Is that how you communicated with some of
 6 the other co-authors in some of the
 7 studies in which you were involved?
 8 A. Some of them were by email, and some was
 9 by phone call, yeah, and by meetings over
 10 here.
 11 Q. One of the other types of documents that
 12 we requested were any invoices or some
 13 sort of evidence of funding --
 14 A. I sent those to you.
 15 Q. -- that was received.
 16 A. I sent those to you. We had a contract.
 17 Did you see those that I sent you?
 18 Q. Did you send us some documents?
 19 A. Yeah, right.
 20 Q. Were they a part of the production that
 21 you sent?
 22 A. Correct.
 23 MS. LEWIS: Do you have extra copies?
 24 MS. CONLIN: They were produced to
 25 us. We have them.

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 2 MS. LEWIS: Thanks, Keith. This one,
 3 too?
 4 MR. DUNDER: It may be responsive.
 5 BY MS. LEWIS:
 6 Q. Do you believe you produced all of the
 7 documents concerning funding?
 8 A. I believe I did.
 9 MR. DUNDER: All the documents that
 10 he had, yes.
 11 THE WITNESS: Hmm.
 12 BY MS. LEWIS:
 13 Q. Did you have any communications, email or
 14 letters, with Dr. Scott Augustine?
 15 A. I don't believe so.
 16 Q. Any email communication between you and
 17 Scott Augustine?
 18 A. I don't believe so.
 19 Q. And the time period that I'm talking about
 20 would be between 2010, 2013.
 21 A. I don't believe so.
 22 Q. If -- if we have copies of some, could it
 23 just be that you just don't remember
 24 whether you made any or not?
 25 A. I -- I'd need to look at them.

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1 DR. KUMAR BELANI CONFIDENTIAL
 2 Q. Did you have any communications with
 3 anyone at Augustine Temperature Management
 4 other than Scott Augustine?
 5 A. The only --
 6 MS. CONLIN: Object to foundation.
 7 Go ahead.
 8 A. The only person that I spoke to was this
 9 Mark Albrecht, and he's the one who came
 10 and wanted to do the studies, so Mark
 11 Albrecht was the one who talked to me. So
 12 he -- he visited to my office, so those,
 13 we would discuss in my office.
 14 BY MS. LEWIS:
 15 Q. Did you have any agreement between --
 16 written agreements between you and any of
 17 the co-authors in the study, for example,
 18 in the -- and I'll get this to you in just
 19 a minute. But in your article about
 20 "Patient warming excess heat," the
 21 co-authors were Mark Albrecht, Paul
 22 McGovern, and Mike Reed and Christopher
 23 Nachtsheim.
 24 A. No.
 25 Q. Any written agreement between you and any